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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,793	03/21/2006	Yoshihiko Kuroki	SON-3400	3407

7590 07/12/2011
Ronald P Kananen
Rader Fishman & Grauer
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Suite 501
Washington, DC 20036

EXAMINER

SADIO, INSA

ART UNIT	PAPER NUMBER
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2629

MAIL DATE	DELIVERY MODE
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07/12/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/572,793	Applicant(s) KUROKI, YOSHIHIKO	
	Examiner INSA SADIO	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8-10,16-18,24-26 and 32-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-10,16-18,24-26 and 32-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendments to claims 1, 9, 17, 25 33, and 36, filed on 04/27/2011 have been entered and considered by examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 33-38 are rejected under 35 U.S.C. 101 because the claim is not to a process, machine, manufacture, or composition of matter. In the state of the art, transitory signals are commonplace as a medium for transmitting computer instructions and thus, in the absence of any evidence to the contrary and given a broadest reasonable interpretation, the scope of a “computer readable medium” can covers a signal per se. A transitory signal does not fall within the definition of a process, machine, manufacture, or composition of matters.

The computer readable medium should be changed to -- a non-transitory computer readable medium – to overcome 101 rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 8, 9, 16, 17, 24, 25, and 32** are rejected under 35 U.S.C. 102(b) as being anticipated by Itoh et al. (US Publication Number 2002/0015104), hereinafter referenced as Itoh.

As of claims 1, 8, 17, 24, 33, 35, 36, and 38 Itoh discloses an image processing system and method, and image display system. Further, Itoh teaches A display apparatus for presenting a moving image with less perceivable degradation, characterized by comprising: display control means for controlling display to cause display means to change a display of the moving image to frame rate of 350 or 360 frames/sec when the moving image is a computer graphics image(change frame rate from 480/360)(See Fig. 7; [0076])(see [0054, 0055], [0068], [0076-0077], [0130], [0131], [0132], figs. 1,7); and the display means for displaying the moving image at the frame rate on the basis of control of the display control means, in which a display of each pixel on a screen is maintained during each frame period (see [0068], [0076], [0130], figs. 6-7).

As of claims 9, 16, 25 and 32, claims 9, 16, 25 and 32 are rejected the same as claim 1. Only claims 9, 16, 25 and 32 are method claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

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subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 2, 10, 18, 26, 34, 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh in view of Ben-David et al. (US Patent Number 6,870,523), Hereinafter referenced as Ben.

As of claims 2 and 18, Itoh teaches the limitations of claim 1 above.

Atoh does not teach **wherein the determined frame rate is 350 frames/sec.**

However, Ben teaches wherein said the determined frame rate is 350 frames/sec (see col.10 L54-65).

Therefore, it would have been obvious to an ordinary skill in the art at the time the invention have been made to combine Ito image processing system and method with the teaching on Ben's frame rate to refresh the frame, because this is an alternate way to update frames.

As of claims 10 and 26, claims 10 and 26 are rejected the same as claim 1. Only claims 10 and 26 are method claims.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, 8-10, 16-18, 24-26, 32 -38 filed on 04/27/2011 have been fully considered but they are not persuasive.

On page 7 Applicant argues that Itoh does not teach changing the display to a frame rate of 350 or 360 frames/sec when the moving image is computer is a computer graphics image. The examiner respectfully disagrees with that since Itoh teach

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changing the display to a frame rate 360 frames/sec(e.g. from 480HZ to **360HZ**) when the moving image is computer, it is a computer graphics image(see Figs. 1, 7; [0008, 0076]).

On page 8 Applicant argues that "Paragraph [0068] of Itoh merely states that the interpolation scheme may be applied to an input frame picture with a 360 Hz refresh to produce an output frame picture with a 480 Hz refresh rate. First, the output frame picture in this example is at 480 Hz. This is not 350 or 360 frames/sec, as claimed by Applicant. Additionally, there is no conditioning of such a particular frame rate on when the moving image is a computer graphics image, as claimed by Applicant. Still further, there is no disclosure or suggestion of changing the display rate to 350 or 360 frames/sec when the moving image is a computer graphics image. Accordingly, this example fails to disclose or suggest "caus[ing] display means to change a display of the moving image to a frame rate of 350 or 360 frames/sec when the moving image is a computer graphics image."

Paragraph [0076] of Itoh mentions the possibility of a 360 frame/sec frame rate in a general sense. Itoh never mentions having this frame rate where the moving image is a computer graphics image, let alone causing the display means to have such a frame rate when the moving image is a computer graphics image.

Paragraph [0130] merely indicates an output rate of 240 Hz and offers no disclosure whatsoever of the particular frame rate of 350 or 360 Hz or, furthermore, having the specifically claimed frame rate when the moving image is a computer graphics image."

The Examiner would like to direct Applicant to paragraphs [0131], [0132] of Itoh where

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Itoh teaches computer graphics pictures. Please see rejection above in the Office Action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to INSA SADIO whose telephone number is (571)270-5580. The examiner can normally be reached on MONDAY through FRIDAY 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LunYi Lao can be reached on 571-272-7671. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2629

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Supervisory Patent Examiner, Art Unit 2629